

Remarks

Claims 25-53 and 55-62 are now pending in this application. Applicant has amended claims 25, 34, 37, 41, 46, 49-51, and 53 to clarify the present invention. Applicant respectfully requests favorable reconsideration of this application.

Applicant has amended claims 37, 41, 46, and 49-51 to address the rejection under 35 U.S.C. § 112, second paragraph. All pending claims comply with 35 U.S.C. § 112, second paragraph and Applicants respectfully requests withdrawal of this rejection.

The Examiner rejected claims 34-49, 53, 55, 57, 58, and 62 under 35 U.S.C. § 102(b) as being anticipated by U.S. patent 5,622,500 to Niznick. The Examiner rejected claims 25-33, 50-52, 56, and 59-61 under 35 U.S.C. § 103(a) as being unpatentable over Niznick.

Niznick does not disclose the present invention since, among other things, Niznick does not disclose a device that includes a single recess that includes a spacer engaging portion and a screw engaging portion. In Figs. 9B and 9F Niznick illustrates an embodiment 409 of the invention that includes two recesses. The recesses are defined by external healing collar engagement means 410 and internal healing collar engagement means 411. These means engage the healing collar, while healing screw 407 is inserted into opening 412 defined by the internal healing collar engagement means 411. Therefore, Niznick includes two openings.

On the other hand, the present invention includes a single recess including two separate

continuous regions. As such, the device disclosed by Niznick does not anticipate the present invention.

Additionally, Niznick does not disclose a device that includes a grip portion to facilitate handling of the holder. Niznick discloses a "stopper" having a much different configuration than the holder of the present invention, particularly the portions that receive the healing collar and healing screw.

In view of the above, Niznick does not disclose all elements of the present invention as recited in claims 34-49, 53, 55, 57, 58, and 62. Since Niznick does not disclose all elements of the present invention as recited in claims 34-49, 53, 55, 57, 58, and 62, the present invention, as recited in newly presented claims 34-49, 53, 55, 57, 58, and 62, is not properly rejected under 35 U.S.C. § 102(b). For an anticipation rejection under 35 U.S.C. § 102(b) no difference may exist between the claimed invention and the reference disclosure. *See Scripps Clinic and Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q. 841 (C.A.F.C. 1984).

Along these lines, anticipation requires the disclosure, in a cited reference, of each and every recitation, as set forth in the claims. *See Hodosh v. Block Drug Co.*, 229 U.S.P.Q. 182 (Fed. Cir. 1986); *Titanium Metals Corp. v. Banner*, 227 U.S.P.Q. 773 (Fed. Cir. 1985); *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 1 U.S.P.Q.2d 1081 (Fed. Cir. 1986); and *Akzo N.V. v. U.S. International Trade Commissioner*, 1 U.S.P.Q.2d 1081 (Fed. Cir. 1986).

Niznick also does not suggest the present invention since, among other things, Niznick does

not suggest a device that includes a single recess that includes a spacer engaging portion and a screw engaging portion continuous with the spacer engaging portion. As described above, the present invention provides a simpler structure that makes it easier to manipulate and hold the small spacer and screw and is easier to manufacture. Niznick suggests a stopper that has two different openings and does not include one recess that has a screw engaging portion and a spacer engaging portion. By having a single recess that includes spacer and screw engaging portions, the recess according to the present invention provides a simple design that makes the present invention easier to manipulate and hold the small spacer and screw. Another advantage of the present invention is that it provides a structure that is easier to manufacture since it only includes one central bore cavity with two different portions.

Additionally, the holder according to the present invention can include a widened bottom part 1b that can fit on the outside of the spacer part. On the other hand, Niznick suggests a stopper 401 that includes a projection 404 that fits inside the internal walls of healing collar 402.

Furthermore, the holder according to the present invention can include an end surface 1d that bears on a corresponding outer flange surface 2d of the spacer part. This flange surface is not the top surface of the spacer part. Rather, the flange surface is well below the top surface of the spacer part. On the other hand, Niznick suggests a stopper that includes an annulus 405 that rests on the top surface of the healing collar. Such an annulus is more critical to dimension than a cylindrical recess as compared to the structure of the present invention. Also, to have the force of action from the stopper on the uppermost part of the collar is more critical as it could give rise to bending forces or the like.

In view of the above, Niznick does not disclose or suggest patentable features of the present invention. Therefore, Niznick does not anticipate the present invention or make the present invention obvious. Accordingly, Applicant respectfully requests withdrawal of the rejection based upon the cited reference.

In conclusion, Applicant respectfully requests favorable reconsideration of this case and early issuance of the Notice of Allowance.

If an interview would facilitate the prosecution of this case, Applicant urges the Examiner to contact the undersigned at the telephone number listed below.

The undersigned authorizes the Commissioner to charge insufficient fees and credit overpayment associated with this communication to Deposit Account No. 19-5127, 19390.0003.

Respectfully submitted,

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